Taylor County/P.P.M.E. Local 2003

2001-02
CEO 570
SECTOR 1

BEFORE
JAMES R. COX
ARBITRATOR

TAYLOR COUNTY, IOWA

and

INTEREST ARBITRATION
2002 – 2003 CONTRACT

PUBLIC, PROFESSIONAL
and MAINTENANCE EMPLOYEES
IUPAT LOCAL 2003

DECISION AND AWARD

The Hearing in this matter was conducted by the Arbitrator at the Taylor County Courthouse in Bedford, Iowa June 11, 2002. Attorney James Swanger represented the County. The Union case was presented by Deborah Groene. Following the close of the Hearing each representative made a comprehensive closing statement in support of their respective positions.

THE ISSUES

May 10, 2002 Fact finder Curtiss Behrens issued Recommendations. Unresolved Items remained and the matter was thereafter brought to Interest Arbitration. Final Offers were exchanged.

There are eight items upon which the parties remain at impasse according to the May 19, 2002 final position of the Union and the County Final Offer dated May 30, 2002. There are no differences of consequence in the party's positions on comparable Counties although Taylor County would put more emphasis on the 5 contiguous Counties.

STATUTORY PROVISIONS

Section 20.22 (9) the applicable Iowa Statute provides that the Arbitrator shall consider, in addition to any other relevant considerations, the following factors.

"(a) Past collective bargaining contracts between the parties including the bargaining that led up to such contracts.

(b) Comparison of wages, hours and conditions of employment of the involved public employees with those of other public employees doing comparable work, giving consideration to factors peculiar to the area and the classifications involved.

(c) The interests and welfare of the public, the ability of the public employer to finance economic adjustments and the effect of such adjustments on the normal standard of service. The inability of the Employer to finance economic adjustments has not been raised.

(d) The power of the public employer to levy taxes and appropriate funds for the conduct of its operation. The Union points out that the County has not taxed to its maximum levy.

I have carefully considered these factors and other relevant considerations in reaching my determination on each of the issues before me. There are three concerns of significance.

While the County has engaged in collective bargaining with this secondary road employee unit since 1976, this is the first contract with the IUPAT. It is apparent from the comments of the fact finder and the observations of the Arbitrator that the parties have not had sufficient experience dealing with each other in order to establish the mutual trust essential to good labor relations. Many of their differences were language related.

Secondly, during the course of the negotiations the County raised a negotiability question. It was determined that an existing use of banked sick leave upon separation of employment due to a permanent disability was a permissive subject of bargaining. The Union stresses that, as a consequence of the County's exercise of a right to refuse to bargain over this language, an existing economic benefit was lost.

Finally, the County has imposed a Countywide wage freeze.

ISSUES SUBMITTED TO INTEREST ARBITRATION

Shoe Allowance

The prior Employment Contract provided that *"An allowance of $25.00 (one payment per year) for steel toe safety shoes shall be paid to any employee upon presentation of proof of purchase/"*

At Interest Arbitration the Union seeks to increase this allowance to $50.00 and make it applicable to *"safety shoes"* while the County would maintain the present $25.00

reimbursement but also broaden the definition to "safety shoes". The Fact Finder would retain the prior contract language.

As the Fact Finder pointed out, evidence from the 12 comparative Counties does not provide sufficient support for an increase. Only Clarke County provides any partial reimbursement for safety shoes – they pay $30.00 for boots and $60.00 if the employee is on the four-person culvert crew.

Some Counties do provide some payment to employees for non shoe items for reasons that appear to be unrelated to conditions which require boots.

Two Counties give $50,00 and $60.00 reimbursements respectively for safety lenses every two years[1], a third provides coveralls to mechanics and makes such apparel available to others when they perform identified work in the Shop and another has a clothing allowance of $208.00 for an unspecified number of employees regularly working with creosoted lumber. 5 of the 12 Counties in the comparability group[2] do not provide any type of allowance.

There was no indication of the extent of prior utilization of this benefit in Taylor County.

I find that the final position of the County on this issue to be the most reasonable.

Grievance Procedure Issue.

The prior Agreement did not contain a comprehensive Grievance Procedure. While the parities have now bargained a detailed and workable procedure, the scope of the Arbitrator's authority as well as paid grievance time issues remain unresolved.

The Union position on the first sub issue, the scope of Authority (Section 8.4), also recommended by the Fact Finder is expressed:

"An Arbitrator selected pursuant to the provisions of Section 8.3 shall have no power or authority to amend, modify, nullify, ignore, add to or subtract from any of the provisions of this Agreement. The decision of the Arbitrator shall be final and binding on the parties. No liability shall accrue against the County for a date prior to the event giving rise to the grievance. The Arbitrator may not hear more than one grievance unless mutually agreed by the parties."

County language on this issue is much more pervasive and would limit the Arbitrator from hearing or ruling on "*any disciplinary issue*" as well as on any "*decision contrary to or inconsistent with this Agreement*" and would provide that his determination would be final and binding " *unless reversed by a Court*". The finality

[1] Mills County contractually requires employees to possess the type of CDL needed for their job classification.
[2] One is non union.

normally provided by Grievance Arbitration would be substantially restricted. There was *no reason shown for the sought restriction of the Arbitrator's authority to non disciplinary* matters.

The Union position on grievance time (Section 8.6) is:

The investigation or processing of a grievance by the Union or its Stewards shall be allowed during regular working hours with pay and carried out in a manner which does not interfere with normal operations of the County. The Union shall have not more than two (2) members investigating or processing a single grievance".

The Employer would require that all grievances would be processed during the Grievant's non working time unless another time was mutually agreed.

There is no evidence of how many "*complaints*" under the old procedures had been discussed informally with Supervision on work time or how many had been brought to the Board of Supervisors. There is no evidence, based on past experience, upon which I could determine the extent to which work time would be used for Grievance investigation or whether there would be any abuse which would justify such a restriction during this one-year Agreement. The reasonableness of the County approach will be shown during this short term agreement. While this is a concern relevant to the experience of each County, Contract language in comparative Counties does not offer support for the County position on Section 8.4.

Considering both aspects of this issue as I must, the Union's final position is the most reasonable especially considering the restrictions underlined above in the County proposal on Arbitrator authority.

The language in the final Union proposal shall be incorporated into Sections 8.4 and 8.6.

Holidays

The prior Contract provided for 11 Holidays. The County proposes a three Holiday reduction. While there are eligibility and qualification language provisions in the County Offer which are generally acceptable and administratively prudent, there is no basis in the comparables for a three holiday reduction. Only three of the 12 comparable Counties provide a benefit of less than 10 Holidays – Decatur (9 Holidays, Ringgold (8 holidays and a Floater) and Madison (9 Holidays and a floater). There is no evidence of any operational reason to justify the reduction of three Holidays.

The Union final position is the most reasonable.

Hours of Work and Overtime

Article IX addresses *Hours of Work and Overtime.*

The Union proposes the following language for the initial paragraph of that Article.

> *9.1 This Article shall not be construed as a guarantee of or limitation on hours of work per day or days of work per week. However, this language shall not be interpreted to alter the custom and past practice of the parties.*

The Fact Finder recommendation modified the Union proposal on 9.1 slightly, referring in the first sentience to "*hours of work per day or per week*" and adding the second sentence sought by the Union.

Taylor County suggested:

> *This Article shall not be construed as a guarantee of or limitation on hours of work per day or per week, or days of work per week.*

In addition, the Taylor County would add language which would specifically give the County authority to change their determination of daily and weekly work schedules from time to time to meet the their operational requirements. While there are other conditions in their proposal which I find to be reasonable, there was no evidence of any operational condition which existed in the past or which is expect to occur in the future that would justify such an unconditional express right to unilaterally change daily and weekly work schedules.

My analysis is that the most reasonable final position on this issue is that of the Fact Finder.

The sole addition to Article IX shall read:

> *9.1 This Article shall not be construed as a guarantee of or limitation on hours of work per day or per week. However, this language shall not be interpreted to alter the custom and past practice of the parties.*

Longevity

The Union would liberalize existing longevity language by providing for a new *longevity bank* benefit in the Contract. They would retain the current longevity pay provision.. Their proposed new language would read:

Employees shall receive two (2) days per month, accumulating up to ninety (90) days during the first four years of employment that will be placed in a longevity bank.

Employees who, on July 1, 2002, have 45 months of service with the County shall be credited with ninety (90) days in their longevity bank.

Employees shall receive twenty five (25%) of the accumulated longevity bank upon separation of employment for one (1) through ten (10) years of service with the County.

Employees shall receive fifty percent (50%) of the accumulated longevity bank upon separation of employment after ten (10) years of service with the County.

The Fact Finder, in considering this language[3], did not find sufficient comparability evidence to recommend the Union's proposal for a longevity bank at this time". I am of the same opinion. Although there are various pay outs in connection with sick leave, only one of the comparable counties (Freemont) provides for a longevity bank from which there is a lump sum payout upon separation.

Both the County position and the Fact Finder's Recommendation are that the current Contract language should continue and that there should not be any new language as proposed. I adopt the County position on this issue as the most reasonable.

Health insurance premium.

The Union seeks that Taylor County double its share of the dependent insurance premium from the current 15% to 30%. The Fact Finder and the County would not make any change in payments.

There are presently only 5 of 24 bargaining unit employees who have elected family health insurance coverage. Currently the employee contribution share is $358.70.

The County pays full single coverage – $354.00 as of July 2001 and $399.00 commencing in July 2002. Their share of dependant coverage costs rose from $417.00 per employee in July 2001 to $470.55 in July 2002. There is no cap proposal and there is no cap provision in the Agreement although 8 of the 12 comparables have capped plans.

Fact Finder Behrens was unwilling to recommend any changes in the prior contract language without a "*greater showing of need and comparability support*". He recognized that there had been a mid term change from Plan 4 of the ISAC to Plan 5 with a resultant increase in deductibles and that many of the comparative counties have lower deductibles than Taylor. He also noted that Taylor County employees – the 5 who are covered for their family– make a greater dollar contribution toward dependent coverage than employees in any comparable County except one.

There was no evidence presented as to how many bargaining unit employees would be eligible for family coverage. It certainly can be anticipated that doubling the

[3] The County raised a negotiability objection and, according to the Fact Finder's Recommendation, language which is not set forth above was determined to involve a permissive subject of bargaining.

Employer contribution would encourage more otherwise eligible employees to elect family coverage. There were no projections of what could be the increase in costs for dependent coverage in the overall bargaining unit. Both percentage wise and from a dollar standpoint the County would absorb a comparatively high dollar increase with such built in increases. Insurance costs are increasing at an annual rate of more that 10%. A substantial increase in employees covered for family would have a critical impact on the already tight Taylor County budget.

Considering the uncalculated but substantial impact of overall employee insurance cost increases, it would be better to creep up toward parity rather that doubling the increase in one year. The potential size of the sought increase is too great considering the overall package. Such an uncertain cost increase would inhibit the granting of a wage increase which will impact on all employees in the Unit.

The Fact Finder's position on this issue is the most reasonable and should be incorporated into the Agreement..

Term of the Agreement

Both parties propose a one year term – July 1, 2002 through June 30, 2003. The Union proposes a notice date prior to October 15, 2002 for either party wishing to modify or amend the Agreement. The County suggests September 1, 2002 as the notice date and includes other language including a zipper clause.

The Fact Finder would retain the current termination language which, among other wording, incorporates the *personnel policy* of the County which is to apply personnel policies and regulations on a uniform and equitable basis for all. The language also includes a partial equal employment provisions and states that employment in the Unit "*shall be based solely on qualification for a particular job classification regardless of race, creed, color, national origin, religion, sex or ancestry*".

I find the Taylor County final position on the Termination of the Agreement would bring an element of finality to the negotiations and is the most reasonable final position. During the prior term, there had been a mid term modification in insurance.

This language should be adopted..

Article XXXI shall read:

31.1 This Agreement constitutes the entire agreement between the parties and concludes collective bargaining for its term.

31.2 The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject not removed by applicable law from the area of collective bargaining and that the understandings and agreements arrived at by

the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore the County and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waives any right which might otherwise exist to negotiate any matter during the term of this Agreement and agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter not specifically referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

31.3 If any provision of this Agreement is subsequently declared by the proper legislative or judicial authority to be unlawful, unenforceable able, or not in accordance with applicable statutes or ordinances, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

31.4 This Agreement shall become effective July 1, 2002 and thereafter shall remain in full force and effect until June 30, 2003 and shall automatically continue in effect from year to year thereafter unless either party gives the other party written notice of its desire to terminate this Agreement on or before September 1, 2002 or on or before September 1st in any succeeding renewal year.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative this ____ day of _____ 2002.

Wage Rates

The Union seeks a $ .52 cent across the board wage increase. During the probationary period, under that proposal, the Starting Rate for new hires would be seventy five cents ($.75) an hour less than the applicable posted rate for the job classification.

The County would maintain current rates, specifying that they are "*minimum*" rates. *Starting rates will be $2.00 per hour less, while on probation, than the applicable rate for the job classification.*

The Fact Finder noted that the prior Contract was a two year Agreement with a fifty six cent increase commencing July 2001 and provided a three step new hire rate. In three classifications, (Maintenance Operators I and II, Sign Foreman and Maintenance Laborer I), the hourly rates were to be $1.88 below base wage, upon completion of six months of employment, the wage would be moved to $ .94 below the base and then, after a year of employment the wage would reach base. In other classifications, the start rate would be $ .28 below base wage and, at the completion of one year of employment, the hourly wage would be at base. I do not know the staffing in each classification.

The Fact Finder recommended a $ .47 cent across the board increase for all classifications. He recommended that the new hire rate be $ .94 cents below base wage until completion of the probationary period.

The parties have wisely tentatively agreed to reduce the probationary period to 6 months. That change, while operationally sound, will have some cost impact. The evidence does not show turnover to be high or that it is a factor in the probationary rate changes.

In making the determination on the wage increase issue, I assure the parties that I have given special weight to the factors of available funds discussed at the Hearing as well as the consideration that the prior sick leave pay out upon termination will not be a part of the new agreement. I have also recognized the County argument that other County employees will not receive any wage increases during the applicable period and that there have been substantial cutbacks in most Departments.

While there is no inability to pay argument here and the Union has pointed out an area where taxes and revenue could be raised, the evidence clearly establishes that the County arguments on revenue limitations this coming year are not just verbalizations or contentions but are being put into practice with a County wide employee wage freeze including both management and non bargaining unit hourly personnel. What they are doing gives meaning to what they are saying. Such a freeze was not shown to be in effect in any of the other Counties.

I realize that while Taylor County may have slightly better holiday benefits, Unit employees pay more for insurance (out of pocket and premium) and were shown to have lower current wage rates than in the contiguous counties of Montgomery, Page and Ringgold where the rates are more than a dollar an hour higher. Adams had only a five cent lower average but Union was 63 cents below the Taylor rate.

Considering settlements[4] this year, I find that Adams and Union have raised their rates 47 and 45 cents respectively. I see that Adams and Taylor are close in Fund Balances and Property Tax receipts. The highest payer of the 5 contiguous Counties, Montgomery, went up 38 cents, Page raised wages 35 cents and in Ringgold the increase was 47 cents. The only Counties of the 12 to increase wages more than the 47 cents proposed by the Fact Finder were Adair and Clarke where the increases were 50 and 52 cents.

The Fact Finder's analysis of current settlements showed that 47 cents had been awarded by Arbitrator in Ringgold County and that level of increase was not inconsistent with increases elsewhere within the Comparability Group. There was no County that did not increase wages. The average hourly increase in the Comparability Group of 12 is around 45 cents. In addition to recommending $ .47 cents, the Fact Finder also reasoned that, with the new, shorter probationary term, the probationary rate should be the rate that the current contract now provides during the last six months of the current one year probationary period.

[4] One the result of an Arbitration Award.

Recognizing all those factors and applying applicable statutory provisions, I find the position of the Fact Finder to be the most reasonable.

Wage Rates shall be increased 47 cents across the board. There shall be a .94 cent probationary rate.

James R. Cox
Arbitrator

Issued this 21st of June 2002

CERTIFICATE OF SERVICE

I certify that on the 21st day of June 2002, I served the foregoing Award on each of the parties to this matter by mailing a copy to them at their respective addresses.

I further certify that on that same date, I have served this Award for filing with the Iowa Public Employment Relations Board by mailing a copy to their offices at 514 East Locust, Suite 202, Des Moines, Iowa 50309-1012.

James R. Cox